THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

WPMS No.996 of 2003 (M/S) decide on 01/10/2003

Sri P.S. Tomar Versus Civil Judge (SD) Dehradun and another

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Date :-01.10.2003 Initials of Judge

HIGH COURT OF UTTARANCHAL AT NAINTIAL

Writ Petition No. 996 of 2003 (MS)

Sri P.S. Tomar s/o Sri A.s.Tomar
R/o 109, E.C. Road Agra Chowk, Dehradun
……. Petitioners

Versus

1. Civil Judge (SD) Dehradun
2. Sri Dinesh Chand Chanchal s/o Sri Gopi Chand r/o 620/1 Opposite LIC Building Dharampur, Dehradun ……... Respondents

Sri S.K. Jain, Advocate for the petitioner
Standing counsel for the respondent no.1

Dated: October 1, 2003

Hon'ble Rajesh Tandon J:

The petitioners have filed the present writ petition praying for a writ, order or direction in the nature of mandamus commanding the respondent no.1 to decide the P.A. Case No. 3 of 2002, Sri P.S. Tomar vs. Sri Dinesh Chand within a reasonable time.

Brief facts giving rise to the present writ petition are that an application under section 21 (1)(a) of U.P. Act No. XIII of 1972 was filed by the petitioners which was numbered as P.A.Case No.3 of 2002 in the Court of respondent no.1. for release of the building in question as the same is required to the landlord for his personal use. The release application was filed on 29.5.2002 and the matter is still pending for disposal as will appear from the copy of the order sheet. The learned counsel for the petitioner has also urged that the case is

ripped for hearing in as written statement has also been filed. Section 21 (1) (a) of U.P. Act no. 13 of 1972 provides for the release of the building on account of the bona fide requirement of the landlord for occupation by himself or any member of his family, or any person for whose benefit it is held by him, either for residential purpose or for purposes of any profession, trade, or calling or where the landlord is the trustee of a public charitable trust, for the objects of the trust. In the present case the landlord requires the accommodation to settle his two sons in business.

Rule 15 (3) of the Act, provides as under:

(3) Every application referred to in sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation.

The requirement of the landlord is the sole purpose for the release of building under Section 21 (1)(a) and (b) of the Act and no one should be deprived of his valuable rights for any inaction of the Court. The well known maxim that the act of the Court should not prejudice anyone ‘actus curiae neminem gravabit. As will appear from the observations of the Apex Court in the case Mohammad Gazi vs. State of M.P. & others, J.T. 2000 (4) SC 55, as under:

“The facts and circumstances of the case, themaxim of equity, namely, actus curiae neminem gravabit- an act of the Court shall prejudice no man, shall be applicable. This maxim is founded upon justice and good sense which serves a safe and certain guide for the administration of law.”

Thus the petitioner is directed to file an application before the Prescribed Authority concerned for expeditious disposal of his case. The Prescribed Authority shall decide his application within a month after receiving certified copy of this order in accordance with law.

With the above observations the writ petition is disposed of.

(Rajesh Tandon, J.)

1.10.2003
*Dhyani